

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Baltimore Division

GALEN DERRY,

Plaintiff,

v.

KIND & DASHOFF, LLC,

Defendant.

Case No. 1:20-cv-02688-EJH

DEFENDANT’S ANSWER TO PLAINTIFF’S CLASS ACTION COMPLAINT

COMES NOW Defendant Kind & Dashoff, LLC, (hereinafter “Defendant”) by and through its counsel, Robert M. Gittins, Esquire of Eccleston and Wolf, P.C., and hereby files its answer to Plaintiff Galen Derry’s Class Action Complaint (the “Complaint”) as follows:

First Defense

The Complaint fails to state a cause of action against Defendant and should be dismissed.

Second Defense

Plaintiff’s claims are not ripe.

Third Defense

There are insufficient potential class members to establish a class in order to maintain this class action law suit.

Fourth Defense

Plaintiff is not a typical representative of the potential class.

Fifth Defense

Plaintiff’s relief sought would not adequately represent the relief sought by the class.

Sixth Defense

Plaintiff lacks standing to bring this Complaint.

Seventh Defense

Plaintiff has failed to identify the requisite common questions of law and fact necessary to sustain a class action.

Eighth Defense

Plaintiff has failed to identify an identifiable class necessary to sustain a class action.

Ninth Defense

Introduction

1. Defendant has insufficient information to formulate a belief as to the truth of the allegations of this paragraph and therefore denies them at this time.

2. Defendant admits that it is a law firm that provides certain debt collection services. Defendant denies the remainder of this paragraph as phrased.

3. Defendant denies the allegations contained in this paragraph.

4. Defendant denies the allegations contained in this paragraph.

Parties

5. Admitted.

6. Defendant has insufficient information to formulate a belief as to the truth of the allegations of this paragraph and therefore denies them at this time.

Jurisdiction and Venue

7. This paragraph states a legal conclusion to which no response is required. To the extent a response may ultimately be required, the allegations of this paragraph are denied as phrased.

8. This paragraph states a legal conclusion to which no response is required. To the extent a response may ultimately be required, the allegations of this paragraph are denied as phrased.

Facts

9. Defendant denies the allegations contained in this paragraph as phrased.

10. This paragraph states a legal conclusion to which no response is required. To the extent a response may ultimately be required, the allegations of this paragraph are denied as phrased.

11. Defendant denies the allegations contained in this paragraph.

12. Defendant has insufficient information to formulate a belief as to the truth of the allegations of this paragraph and therefore denies them at this time.

13. Admitted.

14. Defendant denies the allegations contained in this paragraph as phrased.

15. Defendant has insufficient information to formulate a belief as to the truth of the allegations of this paragraph and therefore denies them at this time.

16. Defendant has insufficient information to formulate a belief as to the truth of the allegations of this paragraph and therefore denies them at this time.

17. Defendant denies the allegations contained in this paragraph as phrased.

18. Defendant denies the allegations contained in this paragraph as phrased.

19. Defendant denies the allegations contained in this paragraph as phrased.

Class Action Allegations

20. Defendant has insufficient information to formulate a belief as to the truth of the allegations of this paragraph and therefore denies them at this time.

21. Defendant denies the allegations contained in this paragraph.

22. Defendant denies the allegations contained in this paragraph.

23. Defendant denies the allegations contained in this paragraph.

24. Defendant denies the allegations contained in this paragraph.

25. Defendant denies the allegations contained in this paragraph.

26. Defendant has insufficient information to formulate a belief as to the truth of the allegations of this paragraph and therefore denies them at this time.

27. Defendant denies the allegations contained in this paragraph.

28. Defendant denies the allegations contained in this paragraph.

29. Defendant denies the allegations contained in this paragraph.

Count I
Violation of the Fair Debt Collection Practices Act
15 U.S.C. 1692f

30. Defendant adopts and incorporates its previous answers and denials in response to this Paragraph of the Complaint.

31. This paragraph states a legal conclusion to which no response is required. To the extent a response may ultimately be required, the allegations of this paragraph are denied as phrased.

32. This paragraph states a legal conclusion to which no response is required. To the extent a response may ultimately be required, the allegations of this paragraph are denied as phrased.

33. This paragraph states a legal conclusion to which no response is required. To the extent a response may ultimately be required, the allegations of this paragraph are denied as phrased.

34. This paragraph states a legal conclusion to which no response is required. To the extent a response may ultimately be required, the allegations of this paragraph are denied as phrased.

35. This paragraph states a legal conclusion to which no response is required. To the extent a response may ultimately be required, the allegations of this paragraph are denied as phrased.

36. This paragraph states a legal conclusion to which no response is required. To the extent a response may ultimately be required, the allegations of this paragraph are denied as phrased.

37. This paragraph states a legal conclusion to which no response is required. To the extent a response may ultimately be required, the allegations of this paragraph are denied as phrased.

38. This paragraph states a legal conclusion to which no response is required. To the extent a response may ultimately be required, the allegations of this paragraph are denied as phrased.

39. Defendant denies the allegations contained in this paragraph as phrased.

40. Defendant denies the allegations contained in this paragraph.

Tenth Defense

Defendant pleads and avers the affirmative defense of release and consent.

Eleventh Defense

Defendant pleads and avers the affirmative defense of contributory negligence.

Twelfth Defense

Defendant asserts that Plaintiffs failed to mitigate damages.

Thirteenth Defense

Defendant pleads and avers the affirmative defense of waiver.

Fourteenth Defense

Defendant pleads and avers the affirmative defense of unclean hands.

Fifteenth Defense

Defendant avers and asserts the affirmative defense of failure of consideration.

Sixteenth Defense

Defendant avers and asserts the affirmative defense of assumption of the risk.

Seventeenth Defense

Plaintiff's damages, if any, were caused by parties over whom Defendant had no control or responsibility.

Eighteenth Defense

Defendant pleads and avers the affirmative defense of the statute of limitations.

Nineteenth Defense

Defendant pleads and avers the affirmative defense of estoppel.

Twentieth Defense

Defendant pleads and avers that to the extent Plaintiff incurred any damages, such damages were the result of independent intervening acts for which Defendant had no control or responsibility.

Twenty-First Defense

Defendant pleads and avers the defense of accord and satisfaction.

Twenty-Second Defense

This Defendant pleads and avers the affirmative defense of laches.

Twenty-Third Defense

Defendant generally denies all liability and damages to the Plaintiff.

To the extent any factual allegations contained within the Complaint have not been responded to in this Answer, Defendant generally denies all factual allegations of said Complaint. Defendant reserves the right to supplement its Answer as factual discovery develops.

WHEREFORE, having fully answered the Complaint, Defendant requests this Honorable Court to dismiss the Complaint as filed, with prejudice, and with costs awarded to Defendant.

JURY DEMAND

Defendant hereby demands a trial by jury.

Respectfully submitted,

/s/Robert M. Gittins

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Attorney for Defendant

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 24, 2020, copies of the foregoing Answer were served via the Court's electronic case filing system to:

Ingmar Goldson , Esq.
The Goldson Law Office
1734 Elton Road, Suite 210
Silver Spring, Maryland 20903

Joseph Mack, Esq.
The Law Offices of Joseph S. Mack
PO Box 65066
Baltimore, MD 21209

/s/Robert M. Gittins

Robert M. Gittins (28240)